

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent and referred as indicated.

H.R. 207. An act to authorize the Secretary of Agriculture to enter into a land exchange involving the Cleveland National Forest, California, and to require a boundary adjustment for the national forest to reflect the land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 238. An act to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses; to the Committee on Energy and Natural Resources.

H.R. 1163. An act to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York; to the Committee on Energy and Natural Resources.

H.R. 1581. An act to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

H.R. 1585. An act to expand the boundary of the Modoc National Forest to include lands presently owned by the Bank of California, N.A. Trustee, to facilitate a land exchange with the Forest Service, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1838. An act to provide for an exchange of lands with the Water Conservancy District of Washington County, Utah; to the Committee on Energy and Natural Resources.

H.R. 2437. An act to provide for the exchange of certain lands in Gilpin County, Colorado; to the Committee on Energy and Natural Resources.

H.J. Res. 69. Joint resolution providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 110. Joint resolution providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 111. Joint resolution providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 112. Joint resolution providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

MEASURE COMMITTED

The following bill was committed as indicated:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on November, 1995 he had presented to the President of the United States, the following enrolled bill:

S. 457. An act to amend the Immigration and Nationality Act to update references in

the classification of children for purposes of United States immigration laws.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

James Charles Riley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2000.

Elisabeth Griffith, of Virginia, to be a Member of the Board of Trustees of the James Madison Memorial Foundation for the remainder of the term expiring September 27, 1996.

Theodore M. Hesburgh, of Indiana, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

Walter Anderson, of New York, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

C. Richard Allen, of Maryland, to be a Managing Director of the Corporation for National and Community Service.

Louise L. Stevenson, of Pennsylvania, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 17, 1999.

Anne H. Lewis, of Maryland, to be an Assistant Secretary of Labor.

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. COCHRAN, from the Committee on Agriculture, Nutrition, Forestry:

Michael V. Dunn, of Iowa, to be an Assistant Secretary of Agriculture.

Michael V. Dunn, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation.

John David Carlin, of Kansas, to be an Assistant Secretary of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENNETT (for himself, Mr. THOMAS, Mr. SIMPSON, Mr. WARNER, and Mr. HATCH):

S. 1401. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. JOHNSTON, and Mr. KEMPTHORNE):

S. 1402. A bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUE:

S. 1403. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 1404. A bill to enhance restitution to victims of crime, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 1405. A bill to eliminate certain benefits for Members of Congress; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENNETT (for himself, Mr. THOMAS, Mr. SIMPSON, Mr. WARNER, and Mr. HATCH):

S. 1401. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that act with respect to surface coal mining and reclamation operations, and for other purposes; to the Committee on Energy and Natural Resources.

THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 AMENDMENT'S ACT OF 1995

Mr. BENNETT. Mr. President, today I am introducing legislation in behalf of myself, Senators THOMAS, SIMPSON, WARNER, and HATCH to amend the Surface Mining Control and Reclamation Act of 1977. I encourage my colleagues to support this legislation.

The Surface Mining Control and Reclamation Act [SMCRA] was signed into law by President Carter in the aftermath of the energy crisis, when coal regulation was considered crucial to the success of his national energy program. In 1977, when this legislation was passed, there were more than 6,000 operating coal mines. Today, the number of operating mines has been reduced approximately to half of the 1977 level. The questions which were first raised back then regarding the States' abilities to effectively operate regulatory programs have been satisfactorily answered and now is the time that we should reexamine the role of OSM and the effectiveness of the current law.

When Congress passed SMCRA, it was agreed that the time had arrived for tougher environmental standards for surface mining operations. SMCRA established specific environmental guidelines for surface mines, including requirements for water and soil treatment and remediation as well as reclamation requirements for old and abandoned mines. It also established the Abandoned Mine Reclamation Fund and the Office of Surface Mining. Most

importantly, it established a framework under which States and the Federal Government could work in unison to administer this new law.

SMCRA was hailed as a model of cooperative State and Federal efforts. Congress passed it with the understanding that after an initial phase-in period, the States would assume responsibility for administering the law. It was understood that once States established environmental standards which were equally as tough as Federal standards, States would assume primacy and could administer their own administrative and environmental programs subject to approval of those programs by the Office of Surface Mining.

Today 23 of the 26 coal producing States have assumed the role as the SMCRA regulating authority in these States. These primacy States have their mining programs periodically reviewed by OSM, which has occasionally exercised its Federal regulatory authority as necessary and expected under the SMCRA agreements.

Unfortunately, OSM has not relinquished full administrative oversight of SMCRA and still retains a great deal of regulatory authority that rightly belongs to the primacy States. The result has been the creation of a problematic, dual regulatory scheme in which OSM regularly issues notice of violations [NOV's] directly to coal mine operators in primacy States whenever OSM is dissatisfied with the way these States are administering their own programs. This daily intervention in State program matters impacts the coal operators most who are often caught in between Federal-State disputes.

For example, the State of Utah obtained primacy for the administration of SMCRA in 1983. We mine 24 million tons of coal annually from 13 active mines. These mines operate in compliance with the environmental requirements of the Utah regulatory program and the mined lands are being returned to productive nonmining uses. In short, the regulatory program is working and the intent and purpose of SMCRA is being fulfilled.

Since January 1993, OSM has taken five direct Federal enforcement actions against Utah. All five were based on disagreements between OSM and the State of Utah over interpretation of the program's language. Not one of the five violations concerned any environmental safety or environmental hazard. Three of the five enforcement actions were dismissed by the Department of Interior's own administrative law judges. The other two concerned a dispute between OSM and Utah concerning the jurisdictional reach of the regulatory program. Both these disputes concerned coal handling and processing equipment located at power plants. One has since been upheld and the other is pending an appeal. In each instance, OSM cited the operator for a practice or condition which had already specifically been approved by the

Utah program. Again, none of the violations concerned adverse off-site environmental impacts.

Direct Federal enforcement has not helped protect the citizens of Utah or the environment. Instead it has diverted scarce resources away from other, more productive work conducted by OSM, Utah, and Utah coal operators. Longstanding disagreements between OSM and the primacy States have retarded the development of State regulatory programs, and continue to inhibit effective implementation. While significant improvements have been made by OSM in recent months, several structural problems continue to interfere with effective and efficient implementation of the coal regulatory program. Again, the most troublesome of these problems is the dual enforcement authority. Direct Federal enforcement in Utah has not only been ineffective and expensive, it has been counterproductive environmentally.

Clearly there is a need to amend SMCRA to return the balance of authority to the primacy States as originally intended by the law. This legislation would make several technical amendments designed to acknowledge the role of those States as the primary regulatory agency where there is an approved State program. These proposed revisions would eliminate the redundancy and confusion that occurs when duplicative State and Federal program provisions are applied directly to mining operations.

This legislation would also clarify that the authority to issue notices of violations [NOV's] in primacy States rests exclusively with the State regulatory authority, unless OSM first determines that the State regulatory authority has failed to properly administer the program, in which case direct Federal authority can be implemented. We have also deleted the redundant reference to the Federal program provisions to avoid any implication of Federal oversight authority to suspend permits in a State with an approved regulatory program. I believe this clarifies the intent of SMCRA as originally passed.

The legislation would clarify that an operator's responsibility is to conform his operations to the terms and conditions of the approved permit for the mine. It also clarifies the regulatory agency's authority to require revisions to a permit as necessary to ensure compliance with the program requirements. Since many decisions of the administrative law judges remain pending on appeal before the Interior Board of Land Appeals for several years before a decision is issued under the existing format, the legislation would eliminate the unnecessary requirement that, as established in OSM's rules, appeals of certain agency decisions proceed through two layers of administrative review prior to seeking judicial review. Finally, this legislation would place a 3-year time limitation upon commencement of actions for alleged

violations. This would encourage the more prompt initiation of any administrative or other actions.

In conclusion, Mr. President, the coal regulatory program created by SMCRA has provided great benefit to the environment, the citizens of Utah, and the coal-mining community. The issues raised by this legislation are not the fault of coal regulation itself, but are the products of an unclear delineation of responsibilities and authorities between the Federal OSM and the primacy States. These amendments will reestablish the intent of SMCRA by reinforcing the role of the States in administering their own regulations. This legislation makes good sense and I encourage my colleagues to join me in cosponsoring this legislation.

By Mr. CRAIG (for himself, Mr. JOHNSTON, and Mr. KEMPTHORNE):

S. 1402. A bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act and for other purposes; to the Committee on Energy and Natural Resources.

THE WASTE ISOLATION PILOT PLANT LAND
WITHDRAWAL ACT

Mr. CRAIG.

Madam President, today Senators JOHNSTON, KEMPTHORNE, and I are introducing legislation to expedite the opening of the waste isolation pilot plant. This legislation removes unnecessary and delaying bureaucratic requirements, achieves a major environmental objective, saves the taxpayers money and, most significantly for the Nation and Idaho, begins the process of successfully cleaning up and decommissioning the nuclear weapons complexes and temporary storage facilities.

The waste isolation pilot plant is located in southeast New Mexico. It is truly a unique project. Its specific purpose is to provide for the safe disposal of transuranic radioactive and mixed waste resulting from defense activities and programs of the U.S. Government. The importance of WIPP, however, extends beyond its stated mission.

Idaho currently stores the largest amount of transuranic waste of any State in the Union, but Idaho is not alone as a waste storage State. Washington, Colorado, South Carolina, and New Mexico also have large amounts of transuranic waste in temporary storage. Until the WIPP opens, little can be done to clean up and close these temporary storage sites.

The agreement recently negotiated between the State of Idaho, the DOE, and the U.S. Navy, states that transuranic waste currently located in Idaho will begin to be shipped to WIPP by April 30, 1999. This legislation will assure this commitment is fulfilled.

We cannot solve the environmental problems at sites such as Idaho's National Engineering Laboratory, or Rocky Flats Weapons Facility, or Savannah River, or others, without this facility in New Mexico. The reason is

THE GUAM WAR RESTITUTION ACT

obvious, Madam President. Without a place to dispose of the waste, cleanup is impossible. Without cleanup, further decommissioning cannot occur.

The goal of this bill is simple: To deliver on Congress' longstanding commitment and open the WIPP facility by 1998.

This bill amends the Waste Isolation Pilot Plant Withdrawal Act of 1992 in several very important and significant ways.

It deletes obsolete language of the 1992 act. Of particular importance is the reference and requirements for test-phase activities. Since the enactment of the 1992 act, the Department of Energy has abandoned the test phase that called for underground testing in favor of aboveground laboratory test programs. Thus, the test phase no longer exists, as defined in the 1992 law, and needs to be removed so it does not complicate the ongoing WIPP process.

Most important, this bill will streamline the process, remove duplicative regulations, save taxpayers dollars—repeat, save taxpayers dollars, hundreds of millions of dollars—and have the following effects:

The existing law contains a 180-day waiting period between the time the Secretary of Energy makes a decision to operate the WIPP and the actual commencement of disposal operations. My bill eliminates this waiting period. The 180 days constitutes an unnecessary delay. Eliminating 180 days saves \$140 million or more in operational expenses during the waiting period and will start the removal of this type of waste from the aboveground storage in Idaho and other affected States 6 months earlier than now scheduled.

The bill requires the Secretary of Energy to determine if engineered or natural barriers in the facility are necessary. This change is consistent with the concept of allowing actions at the WIPP to be based on the technical needs of the WIPP.

Section 7, "Compliance With Environmental Laws and Regulations," will streamline DOE's compliance with applicable environmental laws.

In other words, Madam President, we are not stepping aside from the current environmental commitment. We are assuring that all of it is met, but that it is met on time and under standard.

Section 8 repeals the retrievability requirement which was an outgrowth of below-ground testing. With the replacement of the test phase by laboratory testing, retrievability no longer is needed. All tests are now performed in the laboratory and no transuranic waste is used in testing at the WIPP.

The bill deletes the need for a decommissioning plan which is a duplicative and costly legislative mandate. This plan is covered by the disposal standards of the Land Withdrawal Act of 1992 and thus is not needed.

It deletes the requirement for a no-mitigation determination. In a letter to Senator KEMPTHORNE and me dated September 8, 1995, the Environmental

Protection Agency started that a no-mitigation variance is duplicative because the WIPP is held by the other statutes to a higher standard. EPA states, "A demonstration of nonmitigation of hazardous constituents will not be necessary to adequately protect human health and the environment." Despite this view, EPA further states that unless the current law is amended, the WIPP will be forced to comply with the no-mitigation standards. This unnecessary duplication would be time consuming and costly.

It allows the Secretary of Energy to dispose of a small amount of non-defense transuranic waste in the WIPP. In my opinion, this is a cost effective and safe way to dispose of a relatively minor amount of waste.

But just as important, I would like to make clear what my bill does not do.

This bill does not remove EPA as the DOE regulator of the WIPP. DOE has stated numerous times that it does not want to self-regulate. The Department believes that having EPA as the regular will instill additional public confidence in the certification process and the facility itself, once it opens.

I am skeptical regarding EPA. EPA has a poor record of meeting deadlines. The WIPP, as a facility, is ready to operate now and is basically waiting on EPA's final approval. The schedule DOE has established to meet the opening dates is an aggressive but not entirely workable timetable. It is aggressive only if EPA can accomplish its tasks on time. Because of EPA's demonstrated inability to meet schedules and to avoid imposing unnecessary large financial burdens on the taxpayer, there is a strong sentiment in the Congress to remove EPA from the WIPP regulatory role. Based on assurances made to me by the EPA, my bill does not follow this course. However, if EPA again falters, I will have to reconsider this position in future legislation.

Idaho and the Nation need to have the WIPP opened sooner rather than later. Each day of delay is costly, and the potential dangers to the environment and human health resulting from the temporary storage of this waste continue.

It is time to act. We must, if we are to clean up sites such as Idaho's. We must act to dispose of this task permanently and safety for future generations. This bill clears the way for action.

I encourage my colleagues to become cosponsors of this legislation. We hope to move it expeditiously through the necessary committee and hearing process so that it can become law.

By Mr. INOUE:

S. 1403. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

• Mr. INOUE. Mr. President, on August 14, 1945, Japan signed a declaration of surrender, facilitating the end of World War II. This year we celebrated Victory Over Japan Day, to commemorate those who valiantly fought for humanity and those who were the victims of unspeakable acts of racism, hate, and violence during World War II. We must also remember those who were forced to endure Japanese occupation during World War II. For nearly 3 years, the people of Guam endured war-time atrocities and suffering. As part of Japan's assault against the Pacific, Guam was bombed and invaded by Japanese forces within 3 days of the infamous attack on Pearl Harbor. At that time, Guam was administered by the U.S. Navy under the authority of a Presidential Executive order. It was also populated by then-American nationals. For the first time since the War of 1812, a foreign power invaded U.S. soil.

In 1952, when the United States signed a peace treaty with Japan, formally ending World War II, it waived the rights of American nationals, including those of Guamanians, to present claims against Japan. As a result of this action, American nationals were forced to seek relief from the Congress of the United States.

Today, I rise to introduce the Guam War Restitution Act, which would amend the Organic Act of Guam and provide restitution to those who suffered atrocities during the occupation of Guam in World War II.

The Guam War Restitution Act would establish a Guam Restitution Claims Fund, which would provide specific damage awards to those who are survivors of the war, and to the heirs of those who died during the war. The specific damage awards would be as follows: First, \$20,000 for the category of death; second, \$7,000 for the category of personal injury; and third, \$5,000 for the categories of forced labor, forced march, or internment.

This act would also establish a Guam Restitution Trust Fund to provide restitution to the heirs of those individuals who sustained injuries during the war but died after the war. Eligible heirs would receive restitution in the form of postsecondary scholarships, first-time home ownership loans, and grants for other suitable purposes. In addition, the trust fund could provide research and public educational activities to honor and memorialize the war-time events of Guam.

The U.S. Congress previously recognized its moral obligation to the people of Guam and provided reparations relief by enacting the Guam Meritorious claims act on November 15, 1945 (Public Law 79-224). Unfortunately, the claims act was seriously flawed and did not adequately compensate Guam after World War II.

The Claims Act primarily covered compensation for property damage and limited compensation for death or personal injury. Claims for forced labor, forced march, and internment were never compensated because the Claims Act excluded these from awardable injuries. The enactment of the Claims Act was intended to make Guam whole. The Claims Act, however, failed to specify postwar values as a basis for computing awards, and settled on prewar values, which did not reflect the true postwar replacement costs. Also, all property damage claims in excess of \$5,000, as well as all death and injury claims, required congressional review and approval. This action caused many eligible claimants to settle for less in order to receive timely compensation. The Claims Act also imposed a 1-year time limit to file claims, which was insufficient as massive disruptions still existed following Guam's liberation. In addition, English was then a second language to a great many Guamanians. While a large number spoke English, few could read it. This is particularly important since the Land and War Claims Commission required written statements and often communicated with claimants in writing.

The reparations program was also inadequate because it became secondary to overall reconstruction and the building of permanent military bases. In this regard, the Congress enacted the Guam Land Transfer Act and the Guam Rehabilitation Act (Public Laws 79-225 and 79-583) as a means of rehabilitating Guam. The Guam Land Transfer Act provided the means of exchanging excess Federal land for resettlement purposes, and the Guam Rehabilitation Act appropriated \$6 million to construct permanent facilities for the civic populace of the island for their economic rehabilitation.

Approximately \$8.1 million was paid to 4,356 recipients under the Guam Meritorious Claims Act. Of this amount, \$4.3 million was paid to 1,243 individuals for death, injury, and property damage in excess of \$5,000, and \$3.8 million to 3,113 recipients for property damage below \$5,000.

On June 3, 1947, former Secretary of the Interior Harold Ickes testified before the House Committee on Public Lands relative to the Organic Act, and strongly criticized the Department of the Navy for their "inefficient and even brutal handling of the rehabilitation and compensation and war damage tasks." Secretary Ickes termed the procedures as "shameful results."

In addition, a committee known as the Hopkins Committee was established by former Secretary of the Navy James Forrestal in 1947 to assess the Navy's administration of Guam and American Samoa. An analysis of the Navy's administration of the reparation and rehabilitation program was provided to Secretary Forrestal in a March 25, 1947 letter from the Hopkins Committee. The letter indicated that the Department's confusing policy de-

cisions greatly contributed to the programs' deficiencies and called upon the Congress to pass legislation to correct its mistakes and provide reparations to the people of Guam.

In 1948, the U.S. Congress enacted the War Claims Act of 1948 (Public Law 80-896), which provided reparation relief to American prisoners of war, internees, religious organizations, and employees of defense contractors. The residents of Guam were deemed ineligible to receive reparations under this act because they were American nationals and not American citizens. In 1950, the U.S. Congress enacted the Guam Organic Act (81-630), granting Guamanians American citizenship and a measure of self-government.

The Congress, in 1962, amended the War Claims Act to provide for claimants who were nationals at the time of the war and who became citizens. Again, the residents of Guam were specifically excluded. The Congress believed that the residents of Guam were provided for under the Guam Meritorious Claims Act. At that time, there was no one to defend Guam, as they had no representation in Congress. The Congress also enacted the Micronesian Claims Act for the Trust Territory of the Pacific Islands, but again excluded Guam in the settlement.

In 1988, the Guam War Reparations Commission documented 3,365 unresolved claims. There are potentially 5,000 additional unresolved claims. In 1946, the United States provided over \$390 million in reparations to the Philippines, and over \$10 million to the Micronesian Islands in 1971 for atrocities inflicted by Japan. In addition, the United States provided over \$2 billion in postwar aid to Japan from 1946-51. Further, the United States Government liquidated over \$84 million in Japanese assets in the United States during the war for the express purpose of compensating claims of its citizens and nationals. The United States did not invoke its authority to seize more assets from Japan under article 14 of the Treaty of Peace, as other Allied Powers had done. The United States, however, did close the door on the claims of the people of Guam.

A companion measure to my bill, H.R. 2041, was introduced in the House of Representatives by Representative ROBERT UNDERWOOD. H.R. 2041, however, includes a provision assessing a 0.5 percent fee on the sale of United States military equipment to Japan. My bill does not include the fee provision because, in my view, it would cause U.S. manufacturers to be less competitive with other foreign manufacturers. Imposing such a fee could lead to the loss of American jobs, which is of concern in light of the decline in defense spending.

The issue of reparations for Guam is not a new one for the people of Guam and for the U.S. Congress. It has been consistently raised by the Guamanian Government through local enactments of legislative bills and resolutions, and

discussed with congressional leaders over the years.

The Guam War Restitution Act cannot fully compensate or erase the atrocities inflicted upon Guam and its people during the occupation by the Japanese military. However, passage of this act would recognize our Government's moral obligation to Guam, and bring justice to the people of Guam for the atrocities and suffering they endured during World War II. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam War Restitution Act".

SEC. 2. AMENDMENT TO ORGANIC ACT OF GUAM TO PROVIDE RESTITUTION.

The Organic Act of Guam (48 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 36. RECOGNITION OF DEMONSTRATED LOYALTY OF GUAM TO UNITED STATES, AND SUFFERING AND DEPRIVATION ARISING THEREFROM, DURING WORLD WAR II.

"(a) DEFINITIONS.—For purposes of this section:

"(1) AWARD.—The term 'award' means the amount of compensation payable under subsection (d)(2).

"(2) BENEFIT.—The term 'benefit' means the amount of compensation payable under subsection (d)(3).

"(3) COMMISSION.—The term 'Commission' means the Guam Trust Fund Commission established by subsection (f).

"(4) COMPENSABLE INJURY.—The term 'compensable injury' means one of the following three categories of injury incurred during and as a result of World War II:

"(A) Death.

"(B) Personal injury (as defined by the Commission).

"(C) Forced labor, forced march, or internment.

"(5) GUAMANIAN.—The term 'Guamanian' means any person who—

"(A) resided in the territory of Guam during any portion of the period beginning on December 8, 1941, and ending on August 10, 1944; and

"(B) was a United States citizen or national during such portion.

"(6) PROOF.—The term 'proof', relative to compensable injury, means any one of the following, if determined by the Commission to be valid:

"(A) An affidavit by a witness to such compensable injury.

"(B) A statement, attesting to compensable injury, which is—

"(i) offered as oral history collected for academic, historic preservation, or journalistic purposes;

"(ii) made before a committee of the Guam legislature;

"(iii) made in support of a claim filed with the Guam War Reparations Commission;

"(iv) filed with a private Guam war claims advocate; or

"(v) made in a claim pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582).

“(7) TRUST FUND.—The term ‘Trust Fund’ means the Guam Trust Fund established by subsection (e).

“(b) REQUIREMENTS FOR CLAIMS AND GENERAL DUTIES OF COMMISSION.—

“(1) REQUIRED INFORMATION FOR CLAIMS.—Each claim for an award or benefit under this section shall be made under oath and shall include—

“(A) the name and age of the claimant;

“(B) the village in which the individual who suffered the compensable injury which is the basis for the claim resided at the time the compensable injury occurred;

“(C) the approximate date or dates on which the compensable injury occurred;

“(D) a brief description of the compensable injury which is the basis for the claim;

“(E) the circumstances leading up to the compensable injury; and

“(F) in the case of a claim for a benefit, proof of the relationship of the claimant to the relevant decedent.

“(2) GENERAL DUTIES OF COMMISSION TO PROCESS CLAIMS.—With respect to each claim filed under this section, the Commission shall determine whether the claimant is eligible for an award or benefit under this section and, if so, shall certify the claim for payment in accordance with subsection (d).

“(3) TIME LIMITATION.—With respect to each claim submitted under this section, the Commission shall act expeditiously, but in no event later than 1 year after the receipt of the claim by the Commission, to fulfill the requirements of paragraph (2) regarding the claim.

“(4) DIRECT RECEIPT OF PROOF FROM PUBLIC CLAIMS FILES PERMITTED.—The Commission may receive proof of a compensable injury directly from the Governor of Guam, or the Federal custodian of an original claim filed with respect to the injury pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582), if such proof is contained in the respective public records of the Governor or the custodian.

“(c) ELIGIBILITY.—

“(1) ELIGIBILITY FOR AWARDS.—A claimant shall be eligible for an award under this section if the claimant meets each of the following criteria:

“(A) The claimant is—

“(i) a living Guamanian who personally received the compensable injury that is the basis for the claim, or

“(ii) the heir or next of kin of a decedent Guamanian, in the case of a claim with respect to which the compensable injury is death.

“(B) The claimant meets the requirements of paragraph (3).

“(2) ELIGIBILITY FOR BENEFITS.—A claimant shall be eligible for a benefit under this section if the claimant meets each of the following criteria:

“(A) The claimant is the heir or next of kin of a decedent Guamanian who personally received the compensable injury that is the basis for the claim, and the claim is made with respect to a compensable injury other than death.

“(B) The claimant meets the requirements of paragraph (3).

“(3) GENERAL REQUIREMENTS FOR ELIGIBILITY.—A claimant meets the requirements of this paragraph if the claimant meets each of the following criteria:

“(A) The claimant files a claim with the Commission regarding a compensable injury and containing all of the information required by subsection (b)(1).

“(B) The claimant furnishes proof of the compensable injury.

“(C) By such procedures as the Commission may prescribe, the claimant files a claim under this section not later than 1 year after

the date of the appointment of the ninth member of the Commission.

“(4) LIMITATION ON ELIGIBILITY FOR AWARDS AND BENEFITS.—

“(A) AWARDS.—

“(i) No claimant may receive more than 1 award under this section and not more than 1 award may be paid under this section with respect to each decedent described in paragraph (1)(A)(ii).

“(ii) Each award shall consist of only 1 of the amounts referred to in subsection (d)(2).

“(B) BENEFITS.—

“(i) Not more than 1 benefit may be paid under this Act with respect to each decedent described in paragraph (2)(A).

“(ii) Each benefit shall consist of only 1 of the amounts referred to in subsection (d)(3).

“(d) PAYMENTS.—

“(1) CERTIFICATION.—The Commission shall certify for payment all awards and benefits that the Commission determines are payable under this section.

“(2) AWARDS.—The Commission shall pay from the Trust Fund 1 of the following amounts as an award for each claim with respect to which a claimant is determined to be eligible under subsection (c)(1):

“(A) \$20,000 if the claim is based on death.

“(B) \$7,000 if the claim is based on personal injury.

“(C) \$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

“(3) BENEFITS.—The Commission shall pay from the Trust Fund 1 of the following amounts as a benefit with respect to each claim for which a claimant is determined eligible under subsection (c)(2):

“(A) \$7,000 if the claim is based on personal injury.

“(B) \$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

“(4) REDUCTION OF AMOUNT TO COORDINATE WITH PREVIOUS CLAIMS.—The amount required to be paid under paragraph (2) or (3) for a claim with respect to any Guamanian shall be reduced by any amount paid under the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582) with respect to such Guamanian.

“(5) FORM OF PAYMENT.—

“(A) AWARDS.—In the case of a claim for an award, payment under this subsection shall be made in cash to the claimant, except as provided in paragraph (6).

“(B) BENEFITS.—In the case of a claim for a benefit—

“(i) IN GENERAL.—Payment under this subsection shall consist of—

“(I) provision of a scholarship;

“(II) payment of medical expenses; or

“(III) a grant for first-time home ownership.

“(ii) METHOD OF PAYMENT.—Payment of cash under this subsection may not be made directly to a claimant, but may be made to a service provider, seller of goods or services, or other person in order to provide to a claimant (or other person, as provided in paragraph (6)) a benefit referred to in clause (i).

“(C) DEVELOPMENT OF PROCEDURES.—The Commission shall develop and implement procedures to carry out this paragraph.

“(6) PAYMENTS ON CLAIMS WITH RESPECT TO SAME DECEDENT.—

“(A) AWARDS.—In the case of a claim based on the compensable injury of death, payment of an award under this section shall be divided, as provided in the probate laws of Guam, among the heirs or next of kin of the decedent who file claims for such division by such procedures as the Commission may prescribe.

“(B) INDIVIDUALS PROVING CONSANGUINITY WITH CLAIMANTS FOR BENEFITS.—Each indi-

vidual who proves consanguinity with a claimant who has met each of the criteria specified in subsection (c)(2) shall be entitled to receive an equal share of the benefit accruing under this section with respect to the claim of such claimant if the individual files a claim with the Commission by such procedures as the Commission may prescribe.

“(7) ORDER OF PAYMENTS.—The Commission shall endeavor to make payments under this section with respect to awards before making such payments with respect to benefits and, when making payments with respect to awards or benefits, respectively, to make payments to eligible individuals in the order of date of birth (the oldest individual on the date of the enactment of this Act, or if applicable, the survivors of that individual, receiving payment first) until all eligible individuals have received payment in full.

“(8) REFUSAL TO ACCEPT PAYMENT.—If a claimant refuses to accept a payment made or offered under paragraph (2) or (3) with respect to a claim filed under this section—

“(A) the amount of the refused payment, if withdrawn from the Trust Fund for purposes of making the payment, shall be returned to the Trust Fund; and

“(B) no payment may be made under this section to such claimant at any future date with respect to the claim.

“(9) TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Awards and benefits paid to eligible claimants—

“(A) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

“(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

“(e) GUAM TRUST FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Guam Trust Fund, which shall be administered by the Secretary of the Treasury.

“(2) INVESTMENTS.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code.

“(3) USES.—Amounts in the Trust Fund shall be available only for disbursement by the Commission in accordance with subsection (f).

“(4) DISPOSITION OF FUNDS UPON TERMINATION.—If all of the amounts in the Trust Fund have not been obligated or expended by the date of the termination of the Commission, investments of amounts in the Trust Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Trust Fund, and any unobligated funds remaining in the Trust Fund shall be given to the University of Guam, with the conditions that—

“(A) the funds are invested as described in paragraph (2);

“(B) the funds are used for scholarships to be known as Guam World War II Loyalty Scholarships, for claimants described in paragraph (1) or (2) of subsection (c) or in subsection (d)(6), or for such scholarships for the descendants of such claimants; and

“(C) as the University determines appropriate, the University shall endeavor to award the scholarships referred to in subparagraph (B) in a manner that permits the award of the largest possible number of scholarships over the longest possible period of time.

“(f) GUAM TRUST FUND COMMISSION.—

“(1) ESTABLISHMENT.—There is established the Guam Trust Fund Commission, which shall be responsible for making disbursements from the Guam Trust Fund in the manner provided in this section.

“(2) USE OF TRUST FUND.—The Commission may make disbursements from the Trust Fund only for the following uses:

“(A) To make payments, under subsection (d), of awards and benefits.

“(B) To sponsor research and public educational activities so that the events surrounding the wartime experiences and losses of the Guamanian people will be remembered, and so that the causes and circumstances of this event and similar events may be illuminated and understood.

“(C) To pay reasonable administrative expenses of the Commission, including expenses incurred under paragraphs (3)(C), (4), and (5).

“(3) MEMBERSHIP.—

“(A) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who are not officers or employees of the United States Government and who are appointed by the President from recommendations made by the Governor of Guam.

“(B) TERMS.—

“(i) Initial members of the Commission shall be appointed for initial terms of 3 years, and subsequent terms shall be of a length determined pursuant to subparagraph (F).

“(ii) Any member of the Commission who is appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

“(C) PROHIBITION OF COMPENSATION OTHER THAN EXPENSES.—Members of the Commission shall serve without pay, except that members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner that persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

“(D) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

“(E) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

“(F) SUBSEQUENT APPOINTMENTS.—

“(i) Upon the expiration of the term of each member of the Commission, the President shall reappoint the member (or appoint another individual to replace the member) if the President determines, after consideration of the reports submitted to the President by the Commission under this section, that there are sufficient funds in the Trust Fund for the present and future administrative costs of the Commission and for the payment of further awards and benefits for which claims have been or may be filed under this title.

“(ii) Members appointed under clause (i) shall be appointed for a term of a length that the President determines to be appropriate, but the length of such term shall not exceed 3 years.

“(4) STAFF AND SERVICES.—

“(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

“(B) ADDITIONAL STAFF.—The Commission may appoint and fix the pay of such additional staff as it may require.

“(C) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The Director and the additional staff of the Commission may be appointed without regard to section 5311 of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and sub-

chapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-15 of the General Schedule under section 5332(a) of such title.

“(D) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

“(5) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of funds, services, or property for uses referred to in paragraph (2). The Commission may deposit such gifts or donations, or the proceeds from such gifts or donations, into the Trust Fund.

“(6) TERMINATION.—The Commission shall terminate on the earlier of—

“(A) the end of the 6-year period beginning on the date of the appointment of the first member of the Commission; or

“(B) the date on which the Commission submits to the Congress a certification that all claims certified for payment under this section are paid in full and no further claims are expected to be so certified.

“(g) NOTICE.—Not later than 90 days after the appointment of the ninth member of the Commission, the Commission shall give public notice in the territory of Guam and such other places as the Commission deems appropriate of the time limitation within which claims may be filed under this section. The Commission shall ensure that the provisions of this section are widely published in the territory of Guam and such other places as the Commission deems appropriate, and the Commission shall make every effort both to advise promptly all individuals who may be entitled to file claims under the provisions of this title and to assist such individuals in the preparation and filing of their claims.

“(h) REPORTS.—

“(1) COMPENSATION AND CLAIMS.—Not later than 12 months after the formation of the Commission, and each year thereafter for which the Commission is in existence, the Commission shall submit to the Congress, the President, and the Governor of Guam a report containing a determination of the specific amount of compensation necessary to fully carry out this section, the expected amount of receipts to the Trust Fund, and all payments made by the Commission under this section. The report shall also include, with respect to the year which the report concerns—

“(A) a list of all claims, categorized by compensable injury, which were determined to be eligible for an award or benefit under this section, and a list of all claims, categorized by compensable injury, which were certified for payment under this section; and

“(B) a list of all claims, categorized by compensable injury, which were determined not to be eligible for an award or benefit under this section, and a brief explanation of the reason therefor.

“(2) ANNUAL OPERATIONS AND STATUS OF TRUST FUND.—Beginning with the first full fiscal year ending after submission of the first report required by paragraph (1), and annually thereafter with respect to each fiscal year in which the Commission is in existence, the Commission shall submit a report to Congress, the President, and the Governor of Guam concerning the operations of the Commission under this section and the status of the Trust Fund. Each such report shall be submitted not later than January 15th of the first calendar year beginning after the end of the fiscal year which the report concerns.

“(3) FINAL AWARD REPORT.—After all awards have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

“(A) the total amount of compensation paid as awards under this section, broken down by category of compensable injury; and

“(B) the status of the Trust Fund and the amount of any existing balance thereof.

“(4) FINAL BENEFITS REPORT.—After all benefits have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

“(A) the total amount of compensation paid as benefits under this section, broken down by category of compensable injury; and

“(B) the final status of the Trust Fund and the amount of any existing balance thereof.

“(i) LIMITATION OF AGENT AND ATTORNEY FEES.—It shall be unlawful for an amount exceeding 5 percent of any payment required by this section with respect to an award or benefit to be paid to or received by any agent or attorney for any service rendered in connection with the payment. Any person who violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

“(j) DISCLAIMER.—No provision of this section shall constitute an obligation for the United States to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States, and the suffering and deprivation arising therefrom, during World War II.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including the administrative responsibilities of the Commission for the 36-month period beginning on the date of the appointment of the ninth member of the Commission. Amounts appropriated pursuant to this section are authorized to remain available until expended.”•

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 1404. A bill to enhance restitution to victims of crime, and for other purposes; to the Committee on the Judiciary.

THE VICTIM RESTITUTION ENHANCEMENT ACT OF 1995

• Mr. GRASSLEY. Mr. President, I introduce the Victim Restitution Enhancement Act of 1995, an important piece of legislation—called for in the Contract With America—which will help victims of crime. I have long thought that swift and decisive congressional action is needed in order to change some of the basic injustice associated with our criminal justice system. I believe that the way to do this is to change the focus of our energy and time to assisting and protecting victims of crime. And some of the bills that have been introduced by Senator NICKELS and Senator HATCH do an admirable job of changing the focus.

Mr. President, this morning the Judiciary Committee, under the able leadership of Senator HATCH, conducted a very thorough hearing on mandatory victim restitution. At that hearing, we heard testimony from a number of excellent witnesses, and one theme was particularly evident: We in Congress

need to make sure that victims can actually receive the restitution they are due.

First and foremost, I am a practical man—somebody who looks at the way good ideas and good legislation actually functions in reality. My concern with victim restitution is making sure that crime victims actually receive the restitution they are entitled to.

That is why I am introducing the Victim Restitution Enhancement Act to make sure that crime victims receive full restitution from criminals.

In drafting this bill, I consulted with former U.S. attorneys and others who have actually participated in the current system for victim restitution. And I have incorporated practical, real world suggestions from these seasoned professionals.

Let me briefly summarize the key provisions of my bill:

First, my bill forces criminals to submit sworn affidavits listing their assets after being convicted. If criminals try to hide their assets, or lie about them, they can be prosecuted for perjury, since their asset listing is under oath.

Second, my bill requires that criminals pay off their restitution debts immediately, or at least within 5 years; currently, some criminals have been able to stretch payments over an extended period of time, making victims wait longer for their due.

Third, my bill provides that bankruptcy proceedings will not discharge a criminal's duty to pay restitution.

Fourth, my bill establishes an automatic lien on all of a criminal's assets immediately upon conviction for an offense which gives rise to restitution liability.

Fifth, importantly, my bill provides that prisoners who file prisoner lawsuits must notify their victims in writing of the lawsuit and turn any monetary award over to the victims if the prisoner has not fully satisfied his duty to pay restitution. I think this will help deter many prisoner lawsuits, because criminals will realize that even if they hit the jackpot they can't keep the money.

That is what the bill does. It makes sure that good pieces of legislation, like the draft bill circulated by Senator HATCH, will really work in the real world.

Mr. President, ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victim Restitution Enhancement Act of 1995".

SEC. 2. RESTITUTION.

Section 3663 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking paragraphs (1) through (3);

(B) by inserting the following new paragraph:

"(1)(A) The order of restitution shall require the defendant to—

"(i) submit a sworn statement listing all assets owned or controlled by the defendant; and

"(ii) make payment immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments.

"(B) If the court provides for payment in installments, the installments shall be in equal monthly payments over a payment period prescribed by the court unless the court establishes another schedule.

"(C) If the order of restitution permits other than immediate payment, the payment period shall not exceed 5 years, excluding any term of imprisonment served by the defendant for the offense.";

(C) by redesignating paragraph (4) as paragraph (2); and

(D) by amending paragraph (2), as so redesignated, by striking "under this section," and all that follows through the end of the paragraph and inserting "under this section.";

(2) in subsection (h)—

(A) by striking "(h) An order" and inserting "(h)(1) Subject to paragraph (2), an order";

(B) by redesignating paragraphs (1)(A), (1)(B), and (2) as subparagraphs (A)(i), (A)(ii), and (B), respectively; and

(C) by adding at the end the following new paragraph:

"(2) Notwithstanding any other law that applies a shorter time limitation, a victim may bring an action to enforce an order of restitution on or until the date that is 20 years after the date of the order."; and

(3) by adding at the end the following new subsections:

"(j) No discharge of debt pursuant to a bankruptcy proceeding shall render an order of restitution under this section unenforceable or discharge liability to pay restitution.

"(k)(1) An order of restitution imposed pursuant to this section or by any State court is a lien in favor of the designated agent for a victim of crime entitled to restitution by reason of any Federal or State law, or if such victim cannot be identified, in favor of the United States or any State agency charged with providing restitution to victims of crime, upon all property belonging to the person against whom restitution is ordered. The lien arises at the time of the entry of the order and continues until the liability is satisfied, remitted, or set aside. The court ordering restitution shall notify all potential claimants entitled to restitution. On application of the person against whom restitution is ordered, the Attorney General or any other person or entity holding a lien pursuant to this section, shall—

"(A) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

"(B) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this subsection, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the restitution ordered.

"(2) The provisions of sections 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal Revenue Code of 1986 and of section 513 of the Act of October 17, 1940 (54 Stat. 1190), apply to an

order of restitution and to the lien imposed by paragraph (1) as if the liability of the person against whom restitution is ordered were for an internal revenue tax assessment where the Attorney General is the lienholder, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this paragraph references in the preceding sections of the Internal Revenue Code of 1986 to 'the Secretary' shall be construed to mean 'the Attorney General' and references in those sections to 'tax' shall be construed to mean 'order of restitution'.

"(3) A notice of the lien imposed by paragraph (1) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with section 1962 of title 28, United States Code, of the judgment under which an order of restitution is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1986.

"(4) Notwithstanding any other provision of this subsection, an order of restitution may be enforced by execution against the property of the person against whom it is ordered in like manner as judgments in civil cases.

"(5) No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable.

"(6)(A) If a person against whom restitution is ordered and whose assets are subject to a lien under this subsection files any civil action seeking money damages, including an action filed during a period of incarceration, such person shall serve notice, at the expense of that person, of the filing of the action upon each person entitled to receive restitution, or the designated agent of such person, and the Attorney General.

"(B) Failure to timely provide actual notice shall be grounds for dismissal of the underlying civil action.

"(C) A person entitled to receive restitution under this section, the Office of Victims of Crime of the Department of Justice, or any agency or instrumentality of any State charged with providing restitution to victims of crime, may intervene in the civil action described in subparagraph (A) if the court determines that such intervention would be in the interests of justice."

SEC. 3. COSTS RECOVERABLE.

Section 1918(b) of title 28, United States Code, is amended by inserting before the period the following: "including any amount advanced to purchase contraband in a sting operation during the investigation resulting in the conviction"•

By Mr. FRIST:

S. 1405. A bill to eliminate certain benefits for Members of Congress; to the Committee on Governmental Affairs.

THE CITIZEN CONGRESS ACT OF 1995

• Mr. FRIST. Mr. President, I rise today to introduce the Citizen Congress Act of 1995, a bill that ends many of the perks and privileges that separate Members of Congress from the American people.

The Founding Fathers envisioned a Congress of citizen legislators who would leave their families and communities for a short time to write legislation and then return home to live under the laws they helped to pass. Unfortunately, we have strayed far from

that vision. Enacting term limits would be the best way to recreate a citizen legislature, and I remain committed to passing a term-limits amendment to the Constitution. In the meantime, reforming congressional pensions, pay, and perks offers an immediately achievable step toward making Congress more directly responsible and accountable to the American people.

A strong perception exists among the American people that elected officials in Washington have placed themselves above the laws and have separated themselves from the public with perks and privileges. With enactment of the Congressional Accountability Act and lobbying and gift reform earlier this year, we have begun to address this problem in a bipartisan way. However, we still have a long way to go. To restore confidence in Congress and our democratic form of Government, we must restore confidence in the lawmakers who serve there.

The Citizen Congress Act begins reform of our Government with the Members of Congress themselves. That is why, today, on the 1-year anniversary of last year's elections, I am introducing this important legislation.

I thank the Chair and ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizen Congress Act".

SEC. 2. LIMITATION ON RETIREMENT COVERAGE FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective at the beginning of the Congress next beginning after the date of the enactment of this Act, a Member of Congress shall be ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System, except as otherwise provided under this section.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Notwithstanding subsection (a), a Member may participate in the Thrift Savings Plan subject to section 8351 of title 5, United States Code, at anytime during the 12-year period beginning on the date the Member begins his or her first term.

(c) REFUNDS OF CONTRIBUTIONS.—(1) Nothing in subsection (a) shall prevent refunds from being made, in accordance with otherwise applicable provisions of law (including those relating to the Thrift Savings Plan), on account of an individual's becoming ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) as a result of the enactment of this section.

(2) For purposes of any refund referred to in paragraph (1), a Member who so becomes ineligible to participate in either of the retirement systems referred to in paragraph (1) shall be treated in the same way as if separated from service.

(d) ANNUITIES NOT AFFECTED TO THE EXTENT BASED ON PRIOR SERVICE.—Subsection (a) shall not be considered to affect—

(1) any annuity (or other benefit) entitlement to which is based on a separation from

service occurring before the date of the enactment of this Act (including any survivor annuity based on the death of the individual who so separated); or

(2) any other annuity (or benefit), to the extent provided under subsection (e).

(e) PRESERVATIONS OF RIGHTS BASED ON PRIOR SERVICE.—(1) For purposes of determining eligibility for, or the amount of, any annuity (or other benefit) referred to in subsection (d)(2) based on service as a Member of Congress—

(A) all service as a Member of Congress shall be disregarded except for any such service performed before the date of the enactment of this Act; and

(B) all pay for service performed as a Member of Congress shall be disregarded other than pay for service which may be taken into account under subparagraph (A).

(2) To the extent practicable, eligibility for, and the amount of, any annuity (or other benefit) to which an individual is entitled based on a separation of a Member of Congress occurring after such Member becomes ineligible to participate in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be) by reason of subsection (a) shall be determined in a manner that preserves any rights to which the Member would have been entitled, as of the date of the enactment of this Act, had separation occurred on such date.

(f) REGULATIONS.—Any regulations necessary to carry out this section may be prescribed by the Office of Personnel Management and the Executive Director (referred to in section 8401(13) of title 5, United States Code) with respect to matters within their respective areas of responsibility.

(g) DEFINITION.—As used in this section, the terms "Member of Congress" and "Member" mean any individual under section 8331(2) or 8401(20) of title 5, United States Code.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to apply with respect to any savings plan or other matter outside of subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

SEC. 3. DISCLOSURE OF ESTIMATES OF FEDERAL RETIREMENT BENEFITS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a; Public Law 88-454; 78 Stat. 550) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary of the Senate and the Clerk of the House of Representatives shall include in each report submitted under paragraph (1), with respect to Members of Congress, as applicable—

"(A) the total amount of individual contributions made by each Member to the Civil Service Retirement and Disability Fund and the Thrift Savings Fund under chapters 83 and 84 of title 5, United States Code, for all Federal service performed by the Member as a Member of Congress and as a Federal employee;

"(B) an estimate of the annuity each Member would be entitled to receive under chapters 83 and 84 of such title based on the earliest possible date to receive annuity payments by reason of retirement (other than disability retirement) which begins after the date of expiration of the term of office such Member is serving; and

"(C) any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement."

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 4. ELIMINATION OF AUTOMATIC ANNUITY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

The portion of the annuity of a Member of Congress which is based solely on service as a Member of Congress shall not be subject to a COLA adjustment under section 8340 or 8462 of title 5, United States Code.

SEC. 5. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) PAY ADJUSTMENTS.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) CONFORMING AMENDMENT.—Section 601(a)(1) of such Act is amended—

(1) by striking "(a)(1)" and inserting "(a)";

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking "as adjusted by paragraph (2) of this subsection".

SEC. 6. ROLLCALL VOTE FOR ANY CONGRESSIONAL PAY RAISE.

It shall not be in order in the Senate or the House of Representatives to dispose of any amendment, bill, resolution, motion, or other matter relating to the pay of Members of Congress unless the matter is decided by a rollcall vote.

SEC. 7. TRAVEL AWARDS FROM OFFICIAL TRAVEL OF A MEMBER, OFFICER, OR EMPLOYEE OF THE HOUSE OF REPRESENTATIVES TO BE USED ONLY WITH RESPECT TO OFFICIAL TRAVEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the House of Representatives may be used only with respect to official travel.

(b) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term "travel award" means any frequent flier mileage, free travel, discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term "official travel" means, with respect to the House of Representatives, travel performed for the conduct of official business of the House of Representatives.

SEC. 8. BAN ON MASS MAILINGS.

(a) IN GENERAL.—(1) Paragraph (6)(A) of section 3210(a) of title 39, United States Code, is amended to read as follows:

"(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail."

(2) The second sentence of section 3210(c) of title 39, United States Code, is amended by striking "subsection (a) (4) and (5)" and inserting "subsection (a) (4), (5), and (6)".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 3210 of title 39, United States Code, is amended—

(A) in subsection (a)(3)—

(i) in subparagraph (G) by striking "including general mass mailings,"; and

(ii) in subparagraphs (I) and (J) by striking "or other general mass mailing";

(B) in subsection (a)(6) by repealing subparagraphs (B), (C), and (F), and the second sentence of subparagraph (D);

(C) by repealing paragraph (7) of subsection (a); and

(D) by repealing subsection (f).

(2) Section 316(a) of the Legislative Branch Appropriations Act, 1990 (39 U.S.C. 3210 note) is repealed.

(3) Subsection (f) of section 311 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(f)) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the Congress next beginning after the date of the enactment of this Act.

SEC. 9. RESTRICTIONS ON USE OF MILITARY AIR COMMAND BY MEMBERS OF CONGRESS.

(a) RESTRICTIONS.—(1) Chapter 157 of title 10, United States Code, is amended by adding at the end the following:

“§ 2643. Restrictions on provision of air transportation to Members of Congress

“(a) RESTRICTIONS.—A Member of Congress may not receive transportation in an aircraft of the Military Air Command unless—

“(1) the transportation is provided on a space-available basis as part of the scheduled operations of the military aircraft unrelated to the provision of transportation to Members of Congress;

“(2) the use of the military aircraft is necessary because the destination of the Member of Congress, or an airfield located within reasonable distance of the destination, is not accessible by regularly scheduled flights of commercial aircraft; or

“(3) the use of the military aircraft is the least expensive method for the Member of Congress to reach the destination by aircraft, as demonstrated by information released before the trip by the member or committee of Congress sponsoring the trip.

“(b) DESTINATION.—In connection with transportation provided under subsection (a)(1), the destination of the military aircraft may not be selected to accommodate the travel plans of the Member of Congress requesting such transportation.

“(c) AIRCRAFT DEFINED.—For purposes of this section, the term ‘aircraft’ includes both fixed-wing airplanes and helicopters.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

“2643. Restrictions on provision of air transportation to Members of Congress.”.

(b) EFFECT ON MEMBERS CURRENTLY RECEIVING TRANSPORTATION.—Section 2643 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member of Congress who, as of the date of the enactment of this Act, is receiving air transportation or is scheduled to receive transportation in an aircraft of the Military Air Command until the Member completes the travel plans for which the transportation is being provided or scheduled.

SEC. 10. PROHIBITION ON USE OF MILITARY MEDICAL TREATMENT FACILITIES BY MEMBERS OF CONGRESS.

(a) PROHIBITION.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following:

“§ 1107. Prohibition on provision of medical and dental care to Members of Congress

“A Member of Congress may not receive medical or dental care in any facility of any uniformed service unless—

“(1) the Member of Congress is eligible or entitled to such care as a member or former member of a uniformed service or as a covered beneficiary; or

“(2) such care is provided on an emergency basis unrelated to the person's status as a Member of Congress.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

“1107. Prohibition on provision of medical and dental care to Members of Congress.”.

(b) EFFECT ON MEMBERS CURRENTLY RECEIVING CARE.—Section 1107 of title 10, United States Code, as added by subsection (a), shall not apply with respect to a Member

of Congress who is receiving medical or dental care in a facility of the uniformed services on the date of the enactment of this Act until the Member is discharged from that facility.

SEC. 11. ELIMINATION OF CERTAIN RESERVED PARKING AREAS AT WASHINGTON NATIONAL AIRPORT AND WASHINGTON DULLES INTERNATIONAL AIRPORT.

(a) IN GENERAL.—Effective 30 days after the date of the enactment of this section, the Airports Authority—

(1) shall not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) shall establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

(b) DEFINITIONS.—As used in this section, the terms “Airports Authority”, “Washington National Airport”, and “Washington Dulles International Airport” have the same meanings as in section 6004 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2453).●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 1035

At the request of Mr. DASCHLE, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1072

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1072, a bill to redefine “extortion” for purposes of the Hobbs Act.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1249

At the request of Mr. FRIST, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1249, a bill to amend the Internal Revenue Code of 1986 to establish

medical savings account, and for other purposes.

S. 1279

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1279, a bill to provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes.

S. 1316

At the request of Mr. KEMPTHORNE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1316, a bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the “Safe Drinking Water Act”), and for other purposes.

S. 1396

At the request of Mr. PRESSLER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1396, a bill to amend title 49, United States Code, to provide for the regulation of surface transportation.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. LOTT, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 26, a concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress and the people of the United States a monument dedicated to the Bill of Rights.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 8, 1995, at 10 a.m., to hold a hearing on mandatory victim restitution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session, during the session of the Senate on Wednesday, November 8, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate Committee on Small Business hold a joint hearing with the House Committee on Small Business regarding “Railroad Consolidation: Small Business Concerns” on Wednesday, November 8, 1995, at 2 p.m., in room 2123 of the Rayburn House Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select